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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,155	12/20/2001	Richard Shann	858063.454	3573
500 7590 07/06/2006 SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVE SUITE 6300 SEATTLE, WA 98104-7092			EXAMINER NAHAR, QAMRUN	
			ART UNIT	PAPER NUMBER
			2191	

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/032,155		SHANN, RICHARD	
	Examiner		Art Unit	
	Qamrun Nahar		2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This action is in response to the RCE filed on 03/30/2006.
2. The rejection under 35 U.S.C. 102(e) as being anticipated by Eidt (U.S. 6,219,830) to claims 1-20 is moot in view of new ground(s) of rejection.
3. Claims 1, 11, 13-20 have been amended.
4. Claims 1-20 are pending.

Oath/Declaration

5. The oath or declaration filed on 12/16/2005 is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either an application data sheet or supplemental oath or declaration.

Response to Amendment

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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7. Claims 13-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As per claims 13-20, computer programs claimed as computer listings per se (computer program product), *i.e.*, the descriptions or expressions of the programs, are not physical “things.” They are neither computer components nor statutory processes, as they are not “acts” being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program’s functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program’s functionality to be realized, and is thus statutory. *See In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Palay (U.S. 5,613,120).

Per Claim 1 (Amended):

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The Palay patent discloses:

- **each object code module** (e.g. see “OBJECT FILE”, FIG. 4, item 106) **having section data** (e.g. see “CODE AND DATA”, FIG. 4, item 402), **a set of relocation instructions** (e.g. see “CLASS RELOCATION TABLE”, FIG. 4, item 412), **and one or more symbols** (e.g. see “SYMBOL TABLE”, FIG. 4, item 404)
- **each symbol having a plurality of attributes associated therewith** (e.g. see column 15, lines 58-61)
- **wherein said relocation instructions include a data retrieval instruction having a symbol field identifying a symbol and an attribute field identifying a symbol attribute associated with said identified symbol to be retrieved** (e.g. see column 26, lines 36-40 and lines 43-46)
- **linking the plurality of object code modules** (e.g. see “linker” in abstract and column 26, lines 34-36)
- **in the linking process, reading at least one relocation instruction from said set of relocation instructions and where said relocation instruction is a data retrieval instruction** (e.g. see column 26, lines 36-40 and lines 43-46)

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- **determining the symbol identified by the symbol field** (e.g. see “the value is extracted from the class symbol table” in column 26, lines 44-45)

- **and retrieving one of said plurality of symbol attributes associated with said symbol in dependence on contents of the symbol attributes field of said instruction** (e.g. see “the value is extracted from the class symbol table and is store at the given address according to the type of the relocation entry.” in column 26, lines 44-46 and see column 27, lines 1-15).

Per Claim 2:

The Palay patent discloses:

- **wherein said retrieved symbol attribute is placed in a store for subsequent use by a further relocation instruction** (e.g. see column 28, lines 47-48).

Per Claim 3:

The Palay patent discloses:

- **wherein said store is a stack** (e.g. see column 17, lines 5-26).

Per Claim 4:

The Palay patent discloses:

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- wherein said method further comprises recording a pass value indicative of the number of times said set of relocation instructions from said plurality of object code modules have been read (e.g. see column 28, lines 50-61).

Per Claim 5:

The Palay patent discloses:

- wherein said plurality of symbol attributes includes the value of the symbol (e.g. see column 26, lines 44-46).

Per Claim 6:

The Palay patent discloses:

- wherein said plurality of symbol attributes includes the name of the symbol itself (e.g. see column 26, lines 60-67).

Per Claim 7:

The Palay patent discloses:

- wherein said plurality of symbol attributes includes a ranking determinator, said ranking determinator defining which one of a plurality of definitions of said symbol is selected when forming said executable program (e.g. see column 27, lines 1-15).

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Per Claim 8:

The Palay patent discloses:

- wherein said plurality of symbol attributes includes said pass value indicative of the most recent repetition of said set of relocation instructions during which the value of said symbol has been retrieved (e.g. see column 28, lines 50-61).

Per Claim 9:

The Palay patent discloses:

- wherein said method further comprises determining if the pass value indicative of the most recent repetition is equal to or only one less than said recorded pass value and in response to said determination placing a predetermined value in said store (e.g. see column 28, lines 50-61).

Per Claim 10:

The Palay patent discloses:

- further comprising reading said predetermined value placed in said store and deleting the section data labeled by said symbol in response to the value of said predetermined value (e.g. see column 28, lines 50-61).

Per Claim 11 (Amended):

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This is another version of the claimed method discussed above (claims 1, 4, 5 and 9), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Palay.

Per Claim 12:

The Palay patent discloses:

- **when said symbol attribute field of said data retrieval instruction identifies said symbol value, storing said pass value in a further one of said symbol attributes (e.g. see column 27, lines 1-14).**

Per Claim 13 (Amended):

This is a computer program product version of the claimed method discussed above, claim 1, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Palay.

Per Claim 14 (Amended):

This is a computer program product version of the claimed method discussed above (claims 1 and 2), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Palay.

Per Claim 15 (Amended):

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This is a computer program product version of the claimed method discussed above (claims 1 and 3), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Palay.

Per Claim 16 (Amended):

This is a computer program product version of the claimed method discussed above (claims 1, 3 and 4), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Palay.

Per Claim 17 (Amended):

This is a computer program product version of the claimed method discussed above (claims 1, 3 and 7), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Palay.

Per Claim 18 (Amended):

This is a computer program product version of the claimed method discussed above (claims 1, 3, 4 and 7-10), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Palay.

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Per Claim 19 (Amended):

This is a computer program product version of the claimed method discussed above (claims 1, 4, 5 and 9), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Palay.

Per Claim 20 (Amended):

This is a computer program product version of the claimed method discussed above (claims 1, 4, 5 and 9), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Palay.

Response to Arguments

10. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication from the examiner should be directed to Qamrun Nahar whose telephone number is (571) 272-3730. The examiner can normally be reached on Mondays through Fridays from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y Zhen, can be reached on (571) 272-3708. The fax phone number for the organization where this application or processing is assigned is (571) 273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Qamrun Nahar
June 28, 2006